REMARKS

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the following remarks. Claims 1-14 were pending prior to the Office Action. Claims 15-24 have been added by this Reply. Therefore, claims 1-24 are pending. Claim 1, 2, 8, 9, and 15 are independent.

Changes to Specification And Drawings

By this Reply, the specification and drawings have been amended merely to increase clarity of the disclosure. More specifically, the specification has been amended to remove double negatives regarding figures 6A, 6B, 8A, 9A, and 9B. For example, regarding figure 6A, it is disclosed that in step 212, it is determined whether the spectral sensitivity of the scanner used in the former reading and the spectral sensitivity of the scanner used in the current reading do NOT coincide. *See pages 48 and 49 of the specification.* With this decision, the result is ***negative*** if the sensitivities ***do*** coincide, and the result is ***positive*** if the sensitivities ***do not*** coincide.

The specification and the figures have been amended to remove the double negatives and hence increase understandability. In FIGS. 6A, 6B, 7A, and 7B, the "Y" and "N" reference characters are reversed. No new matter has

been introduced. Additionally, the margins of FIGS. 7A, 7B, and 9B are revised as required in the Form PTO-892 included with the Office Action.

Applicant respectfully requests that the amendments be accepted.

Obviousness-Type Double-Patenting Rejection

Claims 1, 2, 8, and 9 stand rejected under the judicially created doctrine of obviousness-type double-patenting as being unpatentable over claims 1, 8, and 12 of copending application Ser. No. 09/324,123. Applicant respectfully traverses.

A necessary condition to support a "nonstatutory-type" double-patenting rejection is that the claims of the second patent/application are not patentably distinct from the claims of the first patent/application. *See M.P.E.P. §804.* This requirement has not been established, and thus the rejection is improper.

More specifically, it is stated that a double-patenting rejection of the obviousness-type is analogous to the non-obviousness requirement of 35 U.S.C. §103. *See M.P.E.P. 804(B)(1).* Thus, the factors used to determining obviousness under 35 U.S.C. §103 apply here. In other words, a *prima facie* case of obviousness must be established to support this rejection.

To rely on a reference under 35 U.S.C. §103, the reference must be ***analogous***. *See M.P.E.P. 2141.01(a).* The reference must be reasonably pertinent to the particular problem with which the inventor was concerned.

Also see M.P.E.P. 2141.01(a). In this instance, the problems with which the two applications are concerned are different, and thus the two applications are not analogous.

More specifically, the copending application is directed toward a method and apparatus for processing images to correct for change in conditions between prescanning and fine scanning of images when the images are processed. In the copending application, an image is prescanned to obtain prescanned data, conditions are set for fine scanning based on the prescanned data, and the image is fine scanned to obtain fine scanned data. Then the prescanned and fine scanned data are analyzed to determined the differences between the respective data. Using the differences, correction factors are determined to process and output the final image.

As disclosed in the copending application, both the prescan and fine scan occur more or less contemporaneously. There is ***no*** concern regarding the deterioration of images over time. Therefore, terms such as "prescan" and "fine scan" are appropriate for the copending application.

In contrast, the present invention ***is*** concerned with the temporal problem of images deteriorating over time. The present application is directed toward compensating for deterioration of the captured image on photosensitive materials themselves due to environmental factors and the like. The present

application generally discloses initially processing images recorded on a film or other photosensitive material. In the initial processing, the initial conditions under which initial processing takes place (such as spectral sensitivity of the scanner used, position of the film, resolution, etc.), as well as the initial output image data characteristics (RGB densities) of the image, are recorded in a memory.

On subsequent processing of the film, differences between the current and initial conditions are corrected, and the film is exposed after the correction to produce current image data characteristics. In the present invention, it is contemplated that the initial processing and the subsequent processing do ***not*** necessarily take place contemporaneously. To account for the possibility that the initial and subsequent processing are not contemporaneous, the claims employ such terminology as "formerly read", "former reading", etc.

Clearly, the claims of the copending application and the claims of the present application are not analogous. Therefore, the obviousness-type double-patenting rejection of claims 1, 2, 8, and 9 must fail. Applicant respectfully requests that the rejection based on obviousness-type double-patenting be withdrawn.

Rejection under 35 U.S.C. §102 Based on Terashita

Claims 1-14 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Terashita (USPN 5,767,983) ("Terashita"). Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, the rejection is improper and must be withdrawn.

In this instance, independent claim 1 recites, *inter alia*, "calculation means which calculates, based on image characteristics data ... from image data obtained by ... said reading means, and image characteristics data acquired by said acquisition means, a correction parameter for correcting image quality deterioration of the image" (*emphasis added*). Independent claims 2, 8, and 9 recite a similar feature. Terashita fails to teach or suggest at least the above-recited feature.

In the Office Action, it is correctly noted that Terashita discloses that abnormal film characteristics are determined. However, contrary to the implied assertion made, film characteristics are not equivalent to image characteristics. In Terashita, the deterioration of the film characteristics themselves is the primary concern. For example, a film characteristic is the tricolor balance

within a family of film types. *See column 8, lines 1-3.* The film characteristics are extracted and stored. *See column 8, lines 37-40.* The assumption is that if the film deteriorates, the image captured on the film also deteriorates. This is the reason that Terashita discloses methods to detect abnormal films. The abnormalities are then corrected. *See Figures 2B, 4B, 5B, 6B, and corresponding descriptions.* The assumption is that because the film is abnormal, the underlying image data on the film should be normalized and corrected.

This is in contrast to the current claims, where the image characteristics data, measured from reading the image data, are analyzed and corrected if necessary. The image processing as claimed in the claims is totally independent of the underlying film characteristics. As a result, independent claims 1, 2, 8, and 9 are distinguishable over Terashita.

Dependent claims 3-5 and 10-14 depend directly or indirectly from independent claims 1, 2, 8, and 9. Therefore, these dependent claims are also distinguishable from Terashita for at least the reasons stated with respect to the independent claims, as well as on their own merits. Applicant respectfully requests that the rejection of claims 1-14, based on Terashita, be withdrawn.

New Claims

Claims 15-24 have been added by this Reply. All new claims are believed to be distinguishable over the art of record, individually or in any combination. For example, independent claim 15 recites, *inter alia*, "processing the current image data based on the initial image characteristics data and the initial imaging conditions data for outputting a corrected image data of the current image data." It has been shown above that the Terashita may not be relied upon to show at least this feature. Therefore, claim 15 is distinguishable over the cited references.

Claims 16-24 depend from independent claim 15. Therefore, these dependent claims are also distinguishable over the art of record for at least the reasons stated with respect to claim 15.

Applicant respectfully requests that claims 15-24 be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Hyung Sohn

(Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,
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